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André Béteille

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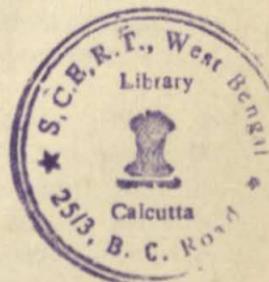
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*The Ambedkar Memorial Lectures
delivered under the auspices of the
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ANDRÉ BÉTEILLE



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Preface

The work presented here is based on the Ambedkar Memorial Lectures delivered in the University of Bombay on 6 and 7 March 1980. I have made some alterations in the text and expanded it somewhat in the hope that by doing so I have made my argument a little more clear. As the subject is very complex, I did not wish to simplify my exposition to the point of misrepresenting the issues involved. But as it is of general concern, I did not wish the text to have the form of a technical paper. I believe that one of the main tasks of sociology in this country is to create a language of discourse in which problems of general concern can be discussed in a rigorous way.

I am firmly convinced that an understanding of the Backward Classes provides a key to the understanding of Indian society as a whole. My first work on the Backward Classes was published in 1965 in the form of a long essay in which I sought to examine the competing demands of status and power among them. In the present work I have tried to explore the implications of the position in society visualized for them in our Constitution. A comprehensive account of the Backward Classes must give a central place to their economic condition, and a good way of opening the discussion would be to ask how they have been affected by economic planning, a question to which I hope to devote my attention before long.

I am grateful to the University of Bombay for the invitation to deliver these lectures and, in particular, to its Vice-Chancellor, Dr Ram Joshi, and to Dr P.T. Borale, formerly Mayor of Bombay, for presiding over the two lectures. I am grateful also to Shri S.N. Mandal of the Ambedkar Institute of Social Research in Delhi for the interest he has taken in them. I owe a special debt of gratitude to Dr B. Sivaramayya for his help and encouragement in their preparation.

André Béteille

I

I would like to devote these lectures to the problem of the Backward Classes in the new social order. In electing to do so I have in mind the concern for the problem of the person whose memory we are here to honour as well as the intrinsic importance of the subject itself. It is a subject that has a practical and a theoretical side, and if I choose to dwell especially on the latter, it is in the belief that action can be fruitful only if it is informed by proper understanding. A proper understanding of the problem of the Backward Classes requires us to view it in several perspectives, notably those of the social sciences and of legal studies; for we are at every step confronted by the divergence between what exists as social reality and what ought to exist according to the laws we have created for ourselves.

Put in a somewhat different way, what I propose to do may be described as a sociological critique of the equality provisions in the Constitution of India. These provisions are both wide-ranging and varied. We cannot understand either their scope or their complexity in terms of purely formal principles. We can appreciate their nature and significance only by relating them to the historical background from which they have emerged and the social context to which they were designed to apply.

No society can move forward unless it sets for itself an ideal of achievement that is superior to the present reality. To this extent the design for living enshrined in a Constitution must rise above the social arrangements that exist on the ground. At the same time, it cannot afford to lose touch with the social facts as they are. For these facts are not only there, but they exercise constraints that cannot be wished out of existence. A Constitution may indicate the direction in which we are to move, but the social structure will decide how far we are able to move and at what pace.

A society has thus to be judged both for what it is and for what it wishes to be. A written Constitution, and especially one that is written at a decisive turn in its history, has a certain significance as an expression of what a society seeks to achieve for itself. A very striking feature of our Constitution is its stress on equality. It is present in the Preamble; it is present in the part embodying the Fundamental Rights; and it is present in the part laying down the Directive Principles of State Policy. Legislative enactments and judicial pro-

nouncements have during the last three decades reiterated this commitment over and over again.

Jurists have pointed out how we have gone further than most modern Constitutions, including the American, in inscribing the commitment to equality into ours. Thus, in speaking of the guarantee of equality, P.K. Tripathi says, 'But it must be appreciated that the scope of the guarantee in the Constitution of India extends far beyond either, or both, the English and the United States guarantees taken together.'¹ One has only to go through the record of debates in the Constituent Assembly or to examine the notes and memoranda prepared by members of the Assembly and by the Constitutional Adviser to see how strong the preoccupation with equality was among the makers of the Indian Constitution. This preoccupation was itself a part of a historical process that grew with the movement for freedom from colonial bondage.

Despite all this, our practice continues to be permeated by inequality in every sphere. The marks of inequality are visible in every form of collective life. Our rural and urban communities are divided and sub-divided into groups and categories that are ranked in elaborate gradations. Distinctions among castes and among classes, though no longer upheld by the law, are taken into account everywhere. There are numerous barriers between the strata, and they are difficult to cross. The reality of rigid social stratification makes itself felt in the daily lives of the poor and the oppressed in general, and the Untouchables in particular.

The problem of the Backward Classes is, in its most general form, the problem of achieving equality in a world permeated by inequality. The significance of the category 'Backward Classes' lies not only in its size and extent, but also in the uniquely Indian way of defining its boundaries. This uniqueness is a reflection of specific social and historical conditions. In India, unlike in other societies, 'backwardness' is viewed as an attribute not of individuals but of communities which are, by their nature, self-perpetuating. In ordinary sociological discourse a class is a set of individuals—or, at best, families—sharing certain life chances in common that they may or may not owe to their ancestors, and that they may or may not transmit to their descendants. By the terms of that discourse, the Backward Classes are not classes at all, but groups of communities.

Judicial pronouncements on the subject reflect the ambiguity inherent in the situation. There are judgements, as in the famous

Balaji's case, which imply that there is, or ought to be, a clear distinction between 'caste' and 'class'.² There are other judgements which maintain, as in *Rajendran's* case, that 'a caste is also a class of citizens'³ or more strongly, as in *Periakaruppan's* case, that 'A caste has always been recognized as a class'.⁴ The discrepancy between the two views is in part, but only in part, due to the use in the first case of a 'sociological' conception of class, and in the second, of what may be called a 'logical' or purely formal conception of it. But the ambiguity is not merely terminological; its roots lie deeper, in our traditional social structure, and in our contemporary attitudes to it.

The Backward Classes are a large and mixed category of persons with boundaries that are both unclear and elastic. Together, they comprise roughly one-third of the total population of the country. They are made up of three principal components, the Scheduled Tribes, the Scheduled Castes and the Other Backward Classes. The Scheduled Tribes and Scheduled Castes are well-defined categories, comprising respectively a little less than seven and a little more than fourteen per cent of the population. The Other Backward Classes are a residual category; their position is highly ambiguous; and it is impossible to give an exact statement of their number.

The Backward Classes provide a window into modern Indian society as a whole. It has been said about the traditional order of Hindu society that it was so extensively marked by the pre-eminence of the Brahmin, that an understanding of his social situation provided a key to the understanding of its structure as a whole.⁵ In many ways the Backward Classes occupy such a privileged position in contemporary Indian society from the point of view of method. For if our interest is in the interplay between equality and hierarchy, there is no significant problem that can escape us if we fix our attention on these sections of Indian society.

If we are to understand how far the law can be used as an instrument of social change, we have to begin by recognizing the disharmony between the legal order with its commitment to complete equality and the social order with its all-pervasive stratification. This disharmony has to be examined in the widest historical and comparative perspective. All modern societies have, in the broadest sense, to contend with the problem of reconciling the ideal of equality with the facts of inequality. It is to this aspect of the modern world that a

distinguished European sociologist drew attention when he wrote, 'Modern industrial societies are both egalitarian in aspiration and hierarchical in organization.'⁶

We can better appreciate the paradox of equality in contemporary Indian society by comparing it with other contemporary societies and by contrasting it with societies of the past. We take the ideal of equality so much for granted today that we tend to overlook the point that traditional societies were hierarchical not only in fact but also by design. As Isaiah Berlin had pointed out in a well-known essay on Equality, 'Classical thought seems to be deeply and "naturally" *inegalitarian*'⁷; and both Aristotle and Plato believed in a natural hierarchy of persons, and insisted on appropriate differences of treatment for each of its various levels. Medieval Europe also regarded the hierarchical order to be a part of the natural scheme of things; and, standing on the threshold of the modern world, de Tocqueville presented a luminous contrast between the 'aristocratic' societies of the past and the 'democratic' societies of the future.⁸

The spirit of hierarchy had its most luxuriant growth in our own traditional society, with its embodiment in the institutions of *varna* and *jati*. Some have been so greatly struck by the stress on hierarchy in the traditional Hindu system of values that they have questioned whether there was in it any appreciation at all of equality as a value. This is to carry a reasonable argument to an unreasonable conclusion, for religious discourse in India never wholly abandoned a concern for man as man, the human spirit behind the external markers of social entitlement and worldly achievement. It is this side of Indian religiosity that attracted Mahatma Gandhi to the message of the Gita and Dr Ambedkar to the teachings of the Buddha.

But it has to be admitted that the idea of equality was for the most part narrowly confined to what may be described as the realm of the spirit. It is difficult from our point of view to see how much solace a man crushed by the burden of an oppressive hierarchy could receive from the thought that his ultimate claim to salvation was as good as that of any other man. At any rate, we have to make a distinction between the spiritual order and the legal order, even though, in a traditional society, both receive their ultimate sanction from religion. In considering the legal order of a society we are less concerned with its ultimate values than with the values that justify and uphold its existing institutions.

The legal order of traditional Hindu society is embodied in the

Dharmashastras. I am neither a student of law nor a classical scholar, but one does not have to be either to see how radically different their spirit is from the spirit of our Constitution. It can hardly be an accident that the man primarily responsible for its drafting chose as an act of public protest to burn the *Manusmriti* which for two thousand years occupied a pre-eminent position among the *Dharmashastras*.

Shudras and women are marked out in the *Dharmashastras* for indignities of every conceivable kind. They are dealt with more harshly than others; their disabilities are grave and onerous; and they are debarred from most of the ordinary graces of life. The subordination of women is underscored in a well-known verse in the *Manusmriti*: 'In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent.'⁹ The Shudra's lot is not much better: 'A Shudra, though emancipated by his master, is not released from servitude; since this is innate in him, who can set him free from it?'¹⁰ Even as sympathetic a reader of the *Dharmashastras* as P.V. Kane was obliged to concede that 'the life of a Shudra was not worth much'.¹¹

It would be a mistake to try to account for all this by means of a narrow theory of interests. Some of the injunctions in the *Dharmashastras* are plainly designed to safeguard the interests of the privileged at the expense of the underprivileged. Others seem to express pure and unalloyed malice, as, for instance, the one against the acquisition of wealth by the Shudras on the ground that 'a Shudra who has acquired wealth gives pain to Brahmins'.¹² Above all, one is struck by the luxuriant growth of the discriminatory process which had, in the manner of tropical vegetation, spread in every direction, leaving no ground uncovered.

The Shudras themselves did not remain an undifferentiated category. They became differentiated into superior and inferior, and the discrimination which the Brahmins practised against them was in turn practised by the superior Shudras against the inferior. Shudras came to be dichotomized in several ways, of which Kane mentions three: the dichotomy of *sat* and *asat* Shudras (well- and ill-conducted Shudras); of *bhojyanna* and *abhojyanna* Shudras (those from whom food might or might not be accepted); and of *aniravasita* and *niravasita* Shudras ('clean' and 'unclean' Shudras).¹³ In the course of time the last came to be regarded as a

separate category, outside the pale of the four *varnas*.

It was for the *niravasita* Shudras—the Chandals and the Shvapachas—that the worst indignities were reserved. They are the classical forebears of the Scheduled Castes of today. Manu requires that ‘the dwellings of Chandals and Shvapachas shall be outside the village . . . their dress the garments of the dead . . . their food . . . given to them . . . in a broken dish.’¹⁴ Again, what strikes one in all this is not simply that distinctions should be made between superior and inferior, or that they should be made primarily according to birth, but that they should seek to leave no sphere of life free from their impress.

It is a familiar argument among sociologists that no society could possibly function if all the injunctions laid down in the *Dharma*-*stra*s were actually to be practised. More than a hundred years ago, Sir Henry Maine had endorsed the view that the *Manusmriti* ‘does not, as a whole, represent a set of rules ever actually administered in Hindostan,’ adding that ‘It is, in great part, an ideal picture of that which, in the view of the Brahmins, *ought* to be the law.’¹⁵ Custom and common sense obviously played a part in protecting the system from its own absurd conclusions. The fact remains, however, that attitudes towards existing social divisions were radically different then from what they are now; at the same time, many of these social divisions persist, despite the change in spirit encoded in our new legal order. This is the most manifest contradiction in everyday life in contemporary India.

It is easy enough to see the contradiction between the ideal of equality and the practice of inequality. What is far less obvious is that the idea of equality is itself made up of various components which are not always mutually consistent. It might indeed be argued that one reason why there is disharmony between ideal and reality in the modern world is that the concept of equality is itself heterogeneous. I believe that the makers of our Constitution had some awareness of this and of the need to strive for a harmonious construction of the different components of the concept, although there cannot be, in the very nature of the case, any simple formula for achieving such a construction.

The concept of equality is so wide in scope and has had such diverse historical expressions that it would be surprising if it retain-

ed a single, univocal meaning. Like all such basic and fundamental concepts, it is both equivocal and inexhaustible. The makers of our Constitution took great pains to incorporate into it whatever they found to be of value in the democratic constitutions of the modern world. They were, in my view, right in doing this, even though breadth of scope had to be achieved at some cost to unity of conception.

Very broadly considered, one can distinguish between equality in the simple sense and equality considered as a ratio. This is an old distinction in Western ethical and political philosophy, and Aristotle makes it both in his *Ethics* and in his *Politics*. In his terminology, the distinction is between 'numerical' equality and 'proportional' equality: as he puts it, 'by the first I mean sameness or equality in number or size; by the second equality of ratios.'¹⁶ Aristotle deals primarily with 'proportional' equality, and his whole theory of distributive justice is based on it.

Equality in the simple sense takes no account of the differences among people. It distributes values in such a way that no recipient gets either more or less than any other. 'Every man to count for one and no one to count for more than one': this is the maxim that best sums up the idea of equality in the simple sense.¹⁷ All modern societies try to apply it to the distribution of certain values, and the idea itself is very widely known. In traditional societies too it was acknowledged, but within restricted spheres, as for instance in the domain of kinship and, up to a point, of religion.

But beyond a certain point, a just distribution of values has to take differences between persons into account. Proportional equality consists in maintaining a just proportion while taking into account the differences among persons. If we accept that there are differences among persons and that different persons have to be treated differently, we can still apply the principle of equality, this time not in a simple sense, but by keeping some relevant criterion in mind. Here it is a question of classifying people, and giving every member of each class an equal right to what is allotted to the class as a whole.¹⁸

But the classification may be made according to merit or according to need, and the implications of the two from the point of view of distribution will be very different. While Aristotle paid much attention to merit, our modern commitment to welfare requires us to pay attention also to need. We know, or believe we know, that peo-

ple differ according to merit, and if we allot equal rewards for equal merit, we are inclined to feel that the principle of equality has been in some sense satisfied. But people differ also according to need, and we might feel that real, as opposed to formal, equality can be achieved only if we make our distribution proportional to the needs of persons. The first of these two principles may be called the meritarian principle, and the second the compensatory principle. As we shall see, there are basic and fundamental tensions between the two, although both principles are invoked in the name of equality.

It would be a mistake to think that these distinctions are made only by professional philosophers or that they are only of academic value. We make them all the time, and, as such, it is important to ensure that we make them consistently and keep their implications clearly in mind. These are the very distinctions we find in Nehru's reflections on equality and inequality set down on the eve of Independence. When he wrote that 'the spirit of the age is in favour of equality' and that 'the spirit of the age will triumph'¹⁹, he had in mind, first of all, the elimination of artificial barriers, such as those of caste, estate or race: this is equality in the simple sense.

But then Nehru went on to say, 'That does not and can not mean that everybody is physically or intellectually or spiritually equal or can be made so. But it does mean equal opportunities for all and no political, economic or social barrier in the way of any individual or group'²⁰: or, in other words, reward must bear some proportion to ability, merit or talent. Nor is this all: for 'not only must equal opportunities be given to all, but special opportunities for educational, economic and cultural growth must be given to backward groups so as to enable them to catch up to those who are ahead of them,'²¹ which is to say that there must be compensation for need and not just reward for merit.

To say that the spirit of the age is in favour of equality is not to say that there are no critics of egalitarianism, either in this country or in the West. There are critics of egalitarianism among scholars as well as men in public life. The most obvious target of attack is what I have described as equality in the simple sense. It can be made to appear absurd by showing that nobody would seriously wish everyone to be treated equally in all respects. Or, it can be made to appear vacuous by showing that so many qualifications have to be made in order to take differences between persons into account that even-

tually very little content remains in the maxim, 'Everyone is to count for one, and no one is to count for more than one.'

A few years ago J.R. Lucas, an Oxford philosopher, wrote an article entitled 'Against Equality' in which he attacked the position adopted by the egalitarians, and concluded, 'The central argument for Equality is a muddle.'²² The argument advanced by Lucas himself is purely formal and pays no attention to the social and historical conditions under which men and women strive to attain equality. More recently a prominent member of the British cabinet, Keith Joseph, has co-authored a book in which he restates the nineteenth-century argument that, since human beings are by nature unequal, it is both futile and perverse to try to establish a social order on the basis of equality.²³

A strong argument in favour of equality is that equal distribution does not call for any specific justification, whereas any unequal distribution, being but a particular case of unequal distribution, does. Isaiah Berlin puts it thus: 'If I have a cake and there are ten persons among whom I wish to divide it, then if I give exactly one tenth to each, this will not, at any rate automatically, call for justification; whereas if I depart from this principle of equal division I am expected to produce a special reason.'²⁴ This is not to argue that good reasons can never be found for unequal division. It is only to suggest that what are offered as reasons are not always good reasons but often specious ones, as for example that men should receive more education than women because they have superior intelligence.

Thus, there is a great deal to be said in favour of the idea of simple equality, with all its limitations. The value we place on it can be illustrated by the commitment in our Constitution to the principle of adult suffrage: every citizen, subject to a certain qualification of age, which every citizen is expected to meet in the ordinary course, has an equal right to elect representatives to Parliament and to the State Assemblies (Art. 326). Now that we have this right, we tend to take it for granted, and perhaps also to abuse it. But we have only to turn to our own recent history, or, indeed, to some of our neighbouring countries today to realize that equality in even this simple sense means something, and that people have had to fight in order to achieve it.

If we go back only a couple of hundred years in time we will realize how novel, in historical terms, the very idea of full adult franchise is. The Levellers became famous as an ultra-Republican

sect or movement whose leaders supported the people's cause in mid-seventeenth century England. But, as a recent student of that period has pointed out, 'the Levellers consistently excluded from their franchise proposals two substantial categories of men, namely servants or wage earners, and those in receipt of alms or beggars.'²⁵ And there was no question of extending the franchise to women. Today it requires some effort to see such a movement as a people's movement.

The very idea of citizenship entails an element of equality—equality in the simple sense—that we tend to take for granted because we tend to take citizenship itself for granted. And yet, the right of citizenship—along with 'equality before the law' and 'the equal protection of the laws'—is not something that all Indians have always enjoyed. I know that there are still villages in India where Untouchables do not have the status of full members. If we condemn this violation of our laws regarding citizenship, how much more must we condemn the laws themselves which required that 'the dwellings of Chandalas and Shvapachas shall be outside the village . . . their dress the garments of the dead . . . their food . . . given to them . . . in a broken dish'.

It is not difficult to find the rationale behind the idea of simple equality—citizenship, equality before the law, equal protection of the laws—and we have to consider it, however briefly. There are undoubtedly differences between persons, and there have to be differences of treatment. From here one might be inclined to argue that for every difference between persons there ought to be a difference of treatment. It is this argument that we must categorically reject as being contrary to both reason and morality. The idea of simple equality merely suggests that differences between persons need not entail differences of treatment; and we can give substance to it only to the extent that we strive to extend those areas of life in which differences between persons are not allowed to interfere with our treatment of them as equal human beings.

To treat people alike, irrespective of outward differences, is to treat them from the human point of view as against the point of view of race, or of caste or of gender. What is meant by treating people from the human point of view can perhaps be best brought home by a consideration of the denial of such treatment. A good example is the attempt to justify the ill treatment of slaves in the New World by the argument that slaves, being blacks, were not human beings in the

full sense of the term.²⁶ Another example is the omission of the aborigines from the censuses of population conducted in Australia until recently; they simply did not count as human beings.²⁷ These are extreme examples, but in a country which has been under colonial rule for two centuries it should not be difficult for even the privileged to understand what denial of consideration from the human point of view might signify.

The case for the human point of view in the context of equality has recently been eloquently made by the English philosopher Bernard Williams, and I cannot do better than to refer to his argument here. Williams first draws attention to certain common human capacities, and then goes on to show how important it is to keep these in mind while making an assessment of any kind of social arrangement:

The assertion that men are alike in the possession of these characteristics is, while indisputable and (it may be) even necessarily true, not trivial. For it is certain that there are political and social arrangements that systematically neglect these characteristics in the case of some groups of men, while being fully aware of them in the case of others; that is to say, they treat certain men as though they did not possess these characteristics, and neglect moral claims that arise from these characteristics and which would be admitted to arise from them.²⁸

He goes on to add that differences of treatment must rest on some moral principle and not merely on an arbitrary assertion of will.

A student of comparative sociology should hesitate to characterize the arrangements in any society or the reasons offered for such arrangements as arbitrary. At the same time, we cannot but be struck by the nature and number of invidious distinctions recognized and endorsed by the guardians of the traditional legal order in India. No society has allowed such a luxuriant growth of invidious social distinctions as ours. These distinctions of caste, subcaste, sect, subsect and the like have acted over the centuries to smother, if not to efface, the human point of view.

We have to take special care in our consideration of the Backward Classes to keep the human point of view in the forefront. Few groups in history could have suffered from the denial of the human point of view as much or as long as they did. Nor is this all a matter of past history. For two thousand years Untouchables and Tribals have been treated as if they were less than human beings, and this treatment was justified by the argument that they and their children

were in their capacities inherently inferior to those born to a superior station in life. These historical disabilities must be kept in mind in any consideration of equality in the new social order.

Principles of proportional equality seek to reconcile the demands of equality with inequalities that are already in existence. As such, they are more complex than the simple equality with which we have been so far concerned. It might be said that in dealing with proportional equality, whether in the context of merit or in the context of need, we are dealing not so much with equality in the strict sense as with justice, or, at best, with equity. But that would be to take too narrow a view of the matter, for the notion of equality must comprehend equality of opportunity and not merely equality of status.

To adopt the human point of view is not to deny or disregard the differences that exist among individuals. If we consider human beings in any real society, we will find that all kinds of differences do exist among them. There are differences that follow from their arrangement in a given social order. There are perhaps also differences that exist independently of this arrangement. For many people the basic and fundamental question is whether there is any correspondence between these two sets of differences.²⁹

If we admit that there are differences in capacity and if we accept that there should be differences in reward, then in those matters where these differences are considered relevant, we should ensure a correspondence between the two. I believe that it was Aristotle who argued that to treat equals unequally is unjust, but that to treat unequals equally is also unjust.³⁰ Although Aristotle was by no means an ardent egalitarian, this particular formulation of the issue would be acceptable as reasonable to most. To take a trivial example, while it would be considered fair to distribute pieces of cake equally among students in a class, it might not be considered fair to distribute marks equally among them.

Every society is characterized by a certain division of labour through which the various activities necessary for collective existence are carried out in an organized manner. From the sociological point of view the division of labour is in some sense what provides each society with its defining features. For example, the division of labour in a traditional Indian village, based on the

jajmani system, is radically different from what we find in a modern industrial town. The tasks to be performed are different, there are differences in degrees of specialization, and the number of roles and their mutual connexions also differ. The division of labour is most clearly manifested in the economic order, particularly in the occupational system, although in a broad sense it may be taken to cover society as a whole.

There are sharp differences of opinion among social theorists about the nature and significance of the division of labour. The French sociologist, Emile Durkheim, took on the whole a positive view of it. Writing in the last decade of the nineteenth century, he noted first and foremost the tremendous expansion of the division of labour since the beginning of the industrial revolution.³¹ New occupations had emerged, and old ones had become divided and sub-divided into various specialisms. The division of labour was not confined to the industrial field alone, but permeated every area of life, including the arts and the sciences. Durkheim argued that this was a welcome trend, because the division of labour not only brought material progress but also led to increased social cohesion, although he recognized that there were abnormal forms of it which were socially disruptive.

Marx, by contrast, took a very critical view of the division of labour.³² He saw a close relationship between the division of labour on the one hand, and the capitalist system and commodity production on the other. Marx and Engels regarded the division of labour to be neither desirable nor inevitable. They had a vision of a future society in which no individual would be tied down to a particular occupational role, and each individual would move freely from one occupation to another according to his choice. At the same time, Marx recognized that such a society could not be created directly or immediately out of the existing social order.³³

The experience of the twentieth century has shown how difficult it is to do away with the division of labour, and I speak not only of the Soviet Union, but also of China. Taking our Constitution and our social structure together, the reasonable position would seem to be that it is not a question of doing away with the division of labour but of regulating it. We can neither attain our economic objectives nor operate our administrative machinery without a properly regulated division of labour. All this requires at the very least a set of rules for recruiting persons to various social positions and for ensuring ap-

proper rewards for them for the proper performance of their tasks.

To return to Durkheim, his argument is that if the division of labour is to contribute to social well-being, 'it is not sufficient . . . that each have his task; it is . . . necessary that his task be fitting to him.'³⁴ However, this objective is achieved only when we have what Durkheim calls a spontaneous division of labour; it is defeated when we have what he calls a forced division of labour. The forced division of labour is, according to Durkheim, a pathological form of it, but one which is likely to be particularly common in societies such as ours.

There is a forced division of labour when external constraints prevent a proper matching of the capacities of individuals with the tasks they are required to perform. We may visualize, on the one hand, a distribution of social positions that together constitute the division of labour; and on the other, a distribution of capacities and talents among the individual members of society. There is perhaps no society which has achieved a perfect concord between the two, but a commitment to such concord is, in my view, a part of our Constitutional commitment to equality. At the same time, our traditional social structure presents a whole series of obstacles to its realization. Family, lineage, clan, caste, sect and gender are what count, rather than individual capacity, in determining which individual will occupy which position in society.

For centuries it has been believed that a man's social capacities were known from the caste or the lineage into which he was born, and that no further test was necessary to determine what these capacities were. And it was considered axiomatic that men and women had radically different capacities not only biologically but also socially. To some extent they did grow up to have different social capacities. But we know today that these differences were a consequence of erroneous beliefs and the artificial social arrangements that rested on them. If we believe that men and women, or Brahmins and Shudras, are born with unequal mental capacities, and if we make unequal provision for their socialization on the basis of this erroneous belief, they will naturally develop unequal capacities as adults.

The scope for equality is severely restricted when women, Shudras, and all kinds of persons are excluded from positions of respect and responsibility in society with no consideration what-

soever for their individual capacities. It is in this context that the principle of equal opportunity acquires its real significance. This principle is written into our Constitution, in its very Preamble as well as among the Fundamental Rights. As I understand it, Art. 16 simply means that no office is too high for any member of society, whether Shudra or Untouchable, so long as there is the ability. Furthermore, equality of opportunity would signify nothing without the concomitant belief that ability or merit or talent might be discovered in any quarter of society whatsoever.

The idea of careers open to talent was a new one that was introduced into Europe in the wake of the French Revolution. It was a revolutionary idea precisely because in the old regime careers were not open to talent, but were determined by birth. The need to throw careers open to talent cannot be too strongly emphasized in our society where status has been more firmly fixed by birth than in any other society at a comparable level of development. The obstacles to free and open competition are many: there are not only objective factors, such as lack of means, but also subjective factors, like lack of motivation, that are a consequence of centuries of organized discrimination.

Today the meritarian principle makes it possible for Untouchables and persons from other disprivileged groups to attain to the highest positions in society, and this is a considerable change from the past. At the same time, it has to be admitted that there is something paradoxical about the principle itself of equality of opportunity. For equality of opportunity demands at best free and open competition. This means that there can be equality only before the competition, but not after it. In other words, equality of opportunity can and does lead to inequality of result, and this must be a source of serious concern in any social order with a fundamental commitment to equality.

It is one thing to recommend equality of opportunity as a way of eliminating discrimination; it is quite another when equality of opportunity becomes only an excuse for relentless competition without any regard for those who lose out in the race. In the West the very people who welcomed the idea of careers open to talent have now begun to be dismayed by the prospects of meritocracy. The publication in 1958 of Michael Young's satirical book, *The Rise of the Meritocracy*³⁹, struck a responsive chord in many, and some began to wonder whether a meritocratic society can accommodate the human

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point of view any better than an aristocratic one.

The difficulty of achieving equality of status solely through equal opportunity becomes abundantly clear in our kind of society where the privileged are also overwhelmingly successful in every kind of competition. The fact that the sons of Untouchable labourers generally do much worse in life than the sons of Brahmin civil servants does not prove anything at all about the merits of the parties concerned. What it proves is the difficulty, if not the impossibility, of fully equalizing the external conditions of competition. Indeed, the examination system as well as the job market favours those who start with better resources and better motivation, both of which are products of their superior position in society. Those who lack these need some compensation if there is to be any prospect of achieving substantive as opposed to merely formal equality.

The idea behind the meritarian principle is that society must remove all artificial barriers against free competition, and then leave each individual to find his proper place according to his merit or his deserts. The idea behind the compensatory principle is that society must intervene in order to ensure that the competition is fair, and not just free. The first seeks merely to remove discrimination, and takes little account of the unequal needs of individuals who are unequally placed. The second seeks to take needs into account, and, at the same time, to provide some cushion against the excesses of untempered competition.

The meritarian principle draws its strength from the notion of equality of opportunity, but this notion itself shows a different aspect when we turn from the ideal to the real conditions of competition. In his Rajendra Prasad Memorial Lectures, Justice Mathew had observed, 'In the final analysis, equality of opportunity is not simply a matter of legal equality. Its existence depends, not merely on the absence of disabilities, but on the presence of abilities.'³⁶ Where these abilities have been damaged or destroyed by the agency of known historical forces, society has an obligation to restore them to life.

It was in the nineteenth century that the meritarian principle came into its own, expressing as it did the spirit of liberal capitalism with its faith in competition and the free market. The compensatory principle has achieved recognition more recently. It owes its inspiration

to socialist rather than to liberal thought, and it relies more on the state than on the market for achieving its objective. To the extent that our Constitution has drawn inspiration from both liberal and socialist ideals, both principles are present in it.

What I have designated, perhaps inadequately, as the compensatory principle is recognized under different names in different societies. In some East European countries like Poland it is acknowledged in the contrast made between the 'meritocratic' and the 'socialist' principles of remuneration. In India it is known as 'protective discrimination' since it seeks to discriminate in favour of groups that had in the past been discriminated against. It has found a place even in a capitalist society like that of the United States under the rubric of 'affirmative action'. In all cases its objective is to bring about equality under unequal circumstances.

The thrust of the contrast between the two principles of proportionality is well brought out in a survey of educational policy in his own country made by a distinguished Polish sociologist:

Unequal conditions of cultural life at home cause the unequal cultural development of children from different strata. Hence workers and peasants support the maintenance of a preferential system of access to institutions of higher education for their children, who are less intellectually developed. Given the limited number of educational places, these preferential principles diminish the automatic chances of children of the intelligentsia to enter the spheres of higher education. Consequently, all principles of selection based upon the results of 'purely' meritocratic examinations are especially popular among the intelligentsia. But this in turn automatically reduces the chances of children from worker and peasant families.³⁷

We see from the above that a choice between the two principles is not merely a matter of moral judgement; it also involves a conflict of interests.

Both the meritarian and the compensatory principles are to be found among the equality provisions in our Constitution. It seems to me that the primary emphasis in the equality provisions in the part on Fundamental Rights is on the removal of discrimination and the provision of equality of opportunity. The spirit of these provisions seems to be that the individual rather than the caste or the sect is the irreducible unit of society, and that each individual be considered according to his particular merit or capacity or ability. The emphasis in the part on the Directive Principles seems to be somewhat different: here the state is to take into account the special needs of certain strata of society, and to make special provisions for equaliz-

ing the unequal conditions obtaining among the different strata.

Perhaps I have overdrawn the contrast between the two parts of the Constitution. Art. 16 itself qualifies the equal opportunity provision by special provisions for backward classes of citizens, and similar provisions have been introduced into Art. 15 by amendment of the Constitution. Nevertheless, there is a difference in spirit between the two types of provision. The first seeks to give free play to merit, the second seeks to accommodate needs. Further, the difference is not simply a difference between merit and need, but between individual merit and the needs of groups or classes of citizens.

If the meritarian principle applies primarily to individuals and the compensatory principle to collectivities, then we have to decide what kinds of collectivities are deserving of special attention. This will depend in part on the structure of groups and classes in the society concerned; but it will depend also on the value assigned in that society to the individual as such. In the United States the Blacks, and possibly other ethnic groups, are candidates for affirmative action. In India the groups especially marked out for protective discrimination are the Untouchables and the tribals. In Poland, in the example cited above, the beneficiaries of preferential treatment in the educational system appear to be peasants and workers.

The idea behind protective discrimination and affirmative action is that certain groups, certain castes or races have special claims on society that cannot be sacrificed altogether to the pursuit of individual excellence. At the same time, no society, least of all a modern society in the second half of the twentieth century, can prosper unless it gives an important place to the claims of individual merit. For no matter which community we take and no matter how disprivileged it is, there will be rival claims to whatever it is that is allotted to it to meet its special needs; and it is difficult to see how individual merit can be overlooked altogether in settling rival claims among the individual members of any disprivileged community.

The compensatory principle, as I have labelled it, seeks to articulate a variety of sentiments. It rests on a recognition of existing social disparities as well as their historical basis. Its recognition of existing social disparities is reflected in its concern for the greater needs of some social strata as compared to others. But there is more to it than just this; there is also a sense of making reparation for an-

cient wrongs, of compensating whole groups and classes for the injuries they have suffered in the past. It is my belief that protective discrimination can and should seek to satisfy present needs; it can do nothing to repair past injuries.

It will not do to exaggerate either the limitations of the meritarian principle or the resources of the compensatory principle by narrowly linking the former with capitalism and the latter with socialism. It is true that historically the strong emphasis on individual merit has been associated with competition, laissez-faire and the free market, in short, with nineteenth-century capitalism; whereas the preoccupation with collective needs, social welfare and the protection of the weak have been associated with twentieth-century socialism. At the same time, no modern society, whether 'capitalist' or 'socialist', can afford to dispense with either principle and rely solely on the other. Even under socialism the educational system and the occupational system must give some place to individual merit as revealed by some form of competition; and even the most aggressively capitalist system has to give the state some role today in protecting the weak by means of compensatory action.

Our hesitation to leave everything to individual merit has grown with our distrust of untempered competition and the market principle. We have grown to value the welfare of the collectivity, and we have learned that some intervention by society is necessary if that is to be achieved. But we must learn also to set limits to this intervention and to see that it does not become merely an euphemism for interference by the state and its bureaucracy. If the weakness of the meritarian principle was that it left too much to the hazards of the market, the weakness of the compensatory principle is that it tends to leave too much to official patronage. It is thus not a question of choosing between the meritarian and the compensatory principles, but of achieving a proper balance between the two.

We come back to the argument that the idea of equality is not a simple or a homogeneous one. There are different components to it, and it is not just a question of reconciling them in the abstract by means of some general formula. No society starts on a clean slate; every society has its own historical legacy. Age-old disparities must be taken into account if the equality in the new social order is to be real and not merely formal. At the same time, we must ensure that in

destroying old inequalities we do not create new ones. Discrimination is a dangerous instrument, no matter how pure the intentions are of those who use it. Our own history ought to teach us how infectious the use of discrimination can be, and how careful we have to be in using it even for a desirable end.

These issues came up again and again when what is now Art. 16 was being debated in the Constituent Assembly more than thirty years ago, and I can do no better than to conclude by drawing attention to the observations made by Dr Ambedkar on that occasion. He emphasized the different points of view that needed to be reconciled. There was first the general opinion 'that there shall be equality of opportunity for all citizens'. There was also the view that 'if this principle is to be operative . . . there ought to be no reservation of any sort for any class or community at all.' Then there was the opinion that 'although theoretically it is good to have the principle that there shall be equality of opportunity, there must at the same time be a provision made for the entry of certain communities which have so far been outside the administration.'³⁸

What I find most appealing in Dr Ambedkar's own approach to the problem is its reasonableness and its freedom from dogmatism. He insisted on the need to take into account the special claims of certain communities which had for centuries been excluded from positions of respect and responsibility. At the same time, he warned against the possibility that these special claims might 'eat up' the general rule of equality of opportunity altogether. In his own words, 'we have to safeguard two things, namely, the principle of equality of opportunity and at the same time satisfy the demand of communities which have not had so far representation in the State.'³⁹ It remains to be seen whether discrimination which has in the past been a source of so much evil can, by being inverted, be made a source of good in the future.

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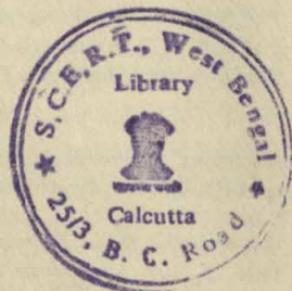
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II

The last lecture was devoted to the argument that there can be different ways of conceiving of equality. Our Constitution itself provides ample support for this argument, requiring us to take merit as well as need into account, and seeking to articulate the human point of view. These ideas, which we now find increasingly difficult to reconcile, were all incorporated precisely because the Constitution was written with a keen awareness of the complex pattern of inequalities actually present in Indian society.

Few will argue that equality in any real sense can be achieved by the sole application of the meritarian principle, without any attention being paid to the unequal needs of people. Indeed, the limitations of the meritarian principle taken by itself have become apparent to most people in the second half of the twentieth century. In no society are the disparities between the well- and the ill-favoured more conspicuous than in India, and no project for the attainment of equality can hope to succeed if it turns a blind eye to these disparities. It is in this context that the compensatory principle acquires saliency in India; there has to be some discrimination if the weak are to contend with the strong on anything like terms of equality.

The plea for giving all sections of society a fair chance rather than making merit the sole criterion was urged consistently in the Constituent Assembly debates on the equality provisions. One of the Harijan members said: 'The Government can expect necessary qualifications or personality from the Harijans, but not merit. If you take merit alone into account, the Harijans cannot move forward.'¹ Other members spoke about the special needs of the Harijans as a whole, and the various measures that might be adopted to meet them.

Earlier, in dealing with the distinction between merit and need, we came upon another distinction which we then left implicit, but which we must now make explicit. This is the distinction between the individual and the group. The two distinctions—between merit and need, and between the individual and the group—are not the same, but it is difficult to keep them apart in any discussion of

equality, particularly in one concerned with protective discrimination. At this stage it is sufficient to say that the meritarian principle tends to take the individual alone into account, ignoring the group or community of which he might be a member. The compensatory principle, on the other hand, tends to identify the individual by the group or community to which he belongs, generally, though not invariably, by being born in it.

The policy of protective discrimination raises two issues which must both be kept in mind in any assessment we make of its successes and failures in India. There is, first of all, the question of how far we are going to reward merit, and how far make allowance for need. There is also the question, equally important to my mind, of how we are going to balance the claims of the individual with those of the group or the community. We must view with caution a policy of protective discrimination which sets out to decrease the inequalities between castes and communities but ends by increasing the inequalities between individual members of each caste and community. It would be a mistake to believe that by making concessions to castes and communities we *automatically* satisfy the needs of all, or even the most deserving, of their individual members.

The application of the compensatory principle presupposes some kind of classification, and it has been well said in a Supreme Court judgement that 'discrimination is the essence of classification'². The Constitution itself recognizes categories of individuals which it variously describes as the weaker sections or the backward classes. The Scheduled Tribes and the Scheduled Castes have been specified and listed. But there are also other classes or sections which appear to have special claims on the resources of the state either in return for past injuries or on account of present needs. It is impossible to assess these claims without a detailed examination of the structure of Indian society, the various communities, classes and sections of which it is composed, and their mutual relations.

It is easy enough to concede that not merit alone, but need also should be taken into account in the allocation of scarce resources. But there can be competing claims on the same resources, all on the basis of need. Take for instance the claims that might be made to services and posts on grounds of the special needs of individuals and classes: it would be disingenuous to pretend that there is no problem here of balancing the needs of various kinds of persons in meeting such claims. Critics of the meritocracy say, with some justice, that

merit is an elusive thing, and that there is an arbitrary element in all judgements of merit. But we must not assume that we all know who has what needs, or that it is always easier to determine the relative needs of persons than it is to determine their relative merits.

The point has to be made at the outset that there are different kinds of needs as well as different ways of meeting them. There are some needs which may be met in such a way that rival claims do not arise, at least not in a direct or obvious way. For instance, one can think of whole sections of society standing in special need of primary education or basic medical care. If these are provided free of charge then the needs of those who cannot afford to pay for them are met without any damage to the claims in these regards of those who can afford to pay.

There are, however, other needs which cannot be met without some judgement being made on the merits of the rival claims. Where the opportunities for employment are few and there are many in need of employment, the claims of some individuals have to be sacrificed in order to meet those of others. This brings out a paradox inherent in the process of discrimination itself. For there is all the difference in the world between a form of protective discrimination from which a disprivileged community, class or section as a whole benefits, and one from which only a few of its individual members benefit. A great deal of what passes for protective discrimination or affirmative action is in fact of the latter rather than the former kind.

If it is true that 'discrimination is the essence of classification' then a great deal will hinge around the classification which determines who the weaker sections—or the backward classes—are. It would be a mistake to assume that such a classification is self-evident, or that it is given to us by the nature of things. It is true that in discussing inequality we often use a geological metaphor and speak of social stratification, as if the whole of society were divided into layers or strata, arranged one on top of another in the way in which the layers of the earth are arranged. But this is only a metaphor which can never do full justice to the complex and fluid patterns in which groups, classes and categories are arranged in a real human society.³

Some classifications seem to be organic or 'natural' because they have existed and been acknowledged for a very long time; such, for instance, is the classification of the Hindu population of India into

its castes and subcastes. Other classifications appear to be 'rational' rather than natural because they are based on the kinds of impersonal criteria we feel ought to be used for making significant distinctions among people; such, for instance, is the classification of people according to their occupation. There obviously is some correspondence between the two, but a problem of choice arises where the correspondence ceases to obtain.

No society has only a single scheme of classification which it uses for every purpose; each has several such schemes among which one or a few may be more extensively used than the others. Broadly speaking, these schemes of classification are of two different kinds. The first uses the individual as its unit, and this gives us classes of individuals according to their income or occupation or education. The second uses the group as its unit, and this gives us an arrangement of clans or castes or other such groups, each having a kind of organic identity of its own. Many have been struck by the subordination of the individual to the group in our own traditional society. Nehru, for instance, described its structure thus: 'This structure was based on three concepts: the autonomous village community, caste, and the joint family system. In all these three it is the group that counts; the individual has a secondary place.'⁴ These groupings, among which we shall be concerned primarily with castes, maintained an identity over and above that of their individual members, and perpetuated themselves by a kind of universal succession.

The distinction between societies which assign priority to the group in their classifications and those which assign priority to the individual corresponds in large measure to the distinction made famous by Henry Maine between societies based on status and those based on contract.⁵ We have inherited a social order based on status, one in which the individual did not count for very much. 'Equality of opportunity' will mean very little if at every turn the individual is shadowed by the caste or the community into which he was born. Justice must be rendered to the castes and communities which have in the past been denied justice; but if we do this without any regard at all for the cost to the individual, instead of moving forward into the new social order promised by the makers of our Constitution, we might move backward into the Middle Ages.

Any discussion of the structure of Indian society must begin with

a consideration of the inequalities that are to be encountered in almost every sphere of life. India has been viewed as a text-book example of a hierarchical society. If we take traditional institutions such as caste, village community and joint family, we will find that each is constituted according to a hierarchical design. The new economic forces have not fully effaced this design, but have on the other hand added other inequalities to those already in existence.

The most notable feature of inequality in Indian society from the past to the present is its visibility. Even though inequalities exist in all complex societies, they are in general more visible in agrarian as compared to industrial societies. Such inequalities are visible in the settlement pattern of our villages where the poor and the ill-favoured live apart from the rich and the well-born. Even in our large cities it is impossible not to be struck by the physical distinctions among people in their dress, appearance and deportment. Some of these distinctions are a consequence of widespread poverty; in a relatively affluent society there is a more even distribution of the basic amenities of life. But there are other distinctions that derive from the peculiarities of our traditional social order.

Social distinctions are not only more visible in India, they tend to be, on the whole, more rigid. By and large, individuals live and die in the station of life into which they are born; marriage also is fairly strictly regulated. There is little mobility, and the barriers between the classes and strata appear to be almost insurmountable. In a society in which the individual moves more or less freely from one level to another in the course of his life, his individual identity appears more important than the class or stratum to which he might belong at a particular moment. In a society characterized by immobility, on the other hand, an individual's personal qualities appear to be of less account than the group of which he is a part. This subordination of the individual to the group is a feature of our traditional social order to which we have already drawn attention; it is a feature that does not harmonize very easily with our new legal order.

Inequalities are not only visible and rigid, they are also highly elaborate. The social distance between the top and the bottom of the hierarchy is very large, and there are numerous grades in between. When we look at our traditional caste structure, we are struck by the divisions and subdivisions within it. When we look at our traditional agrarian hierarchy, we are struck equally by the number of in-

termediaries that stood between the landlord and the tiller of the land. The proliferation of invidious distinctions is a feature also of our modern social life. It has been said that many of these new distinctions are an artefact of colonial rule; even so, colonial rule found in our society a particularly fertile soil for generating distinctions of rank.

How are we to account for these inequalities whose existence is acknowledged by everyone? When and how did they originate, and what has sustained them over the centuries? Opinion is sharply divided on the question of the key to the problem of Indian inequality, and one may well ask whether there is in fact a single key to it. I shall consider two alternative approaches to the problem, because they indicate two different ways of identifying those who are most in need of special assistance.

For some people, the key to the problem of social inequality lies in the domain of material factors. They would say that there is pervasive inequality in India because of its all-round poverty, its general economic backwardness, and its slow rate of economic growth. Extremes of wealth and poverty are characteristic features of economically backward societies. A high rate of economic growth, on the other hand, creates the kinds of opportunities through which the barriers between classes and between strata become dissolved. A stagnant agrarian economy, long under colonial domination, has had very little scope for the loosening of its social rigidities.

The argument about the linkage between economic backwardness and social inequality has been made in a broad comparative and historical perspective by Gunnar Myrdal.⁶ Myrdal contrasts the economically-backward societies of Asia with the economically-advanced societies of the West, and finds that, while inequalities exist in both, they are more visible, more rigid and more elaborate in the former than in the latter. Whether we attribute India's economic backwardness to its traditional institutional structure or to its prolonged subjection to colonial rule, there is no denying the fact that this backwardness has contributed much to the creation and maintenance of a very rigid system of social inequality.

The same contrasts are revealed when we examine the relationship between economic development and social inequality in a historical perspective. Western societies were not always characterized by high rates of economic growth. Pre-industrial society in Europe was,

compared to the present, economically backward, and with this backwardness was associated the existence of all kinds of invidious social distinctions, although it is perhaps true that neither the degree of economic backwardness nor the extent of social inequality there was ever as great as in India. With the creation of new economic opportunities in the West, many of the traditional social distinctions began to dissolve, and a fairly fluid system of classes came to replace the rather rigid system of estates characteristic of the past.

Those who assign primacy to the economic dimension of social inequality tend to view the problem of backwardness in India as being different only in degree from similar problems elsewhere. Perhaps the extent of poverty is greater in this country than in other countries; perhaps more people, in both relative and absolute terms, are in need of special economic assistance here than elsewhere. From the viewpoint of the planner and the policy maker there would appear to be certain advantages in defining backwardness in purely economic terms; one can then measure its extent, and apply uniform rules for deciding how assistance may be matched with need in every individual instance.

But not everybody regards the problem of social inequality in India to be basically an economic problem. There are those who maintain that if we are to get to the root of inequality in India we must begin with what is unique to Indian society and not with what it has in common with other societies. They point out that disparities of wealth and income exist in all complex societies, whereas untouchability exists only in India, and that unless we understand the social basis of untouchability we will never be able to find a solution to the problem of backwardness in India. In this view poverty, and even destitution, is only an aspect of a larger problem which has its roots in the very structure of traditional Hindu society.⁷

Nobody can deny the special significance of the caste system for the problem of inequality in India, including contemporary India. From the sociological point of view, the caste system has a morphological aspect and an ideological aspect, and to a large extent the one has reinforced the other. Morphologically, the whole of Hindu society has been divided and subdivided into a large number of small and well-defined groups, ranked in an elaborate and complex hierarchy; it was these groups, rather than individuals, which constituted the building blocks of caste society. Ideologically, there has been a strong emphasis on collective as opposed to individual identi-

ty, and on hierarchy, particularly as viewed in terms of the opposition between purity and pollution; social superiority was defined not so much in terms of wealth as of purity, and the stigma of pollution rather than poverty was what defined social inferiority.

Indian society may be represented in terms of *either* its class structure *or* its caste structure. Each provides or at least claims to provide a kind of global perspective on Indian society. Those who advocate the perspective of class seek to explain by it not only inequality in its various forms but every other important aspect of life as well, from politics to religion. Alternatively, those who favour the perspective of caste argue that caste permeates every sphere of collective life in both its morphological and ideological aspects.

Sociologists who believe that caste provides the ground plan of Indian society maintain that 'class' is a category of capitalist society, or industrial society, or Western society, and that Indians themselves do not perceive their social world as being divided into classes as Europeans or Americans might do; one variant of this argument is that in India 'class' is nothing but a particular grouping of castes. The argument on the other side is that the perspective of caste is a backward-looking perspective on Indian society, that caste might have been significant in the past, but that today it is merely a shell that conceals the real cleavages in Indian society, which are those of class.

I believe the question to be of such fundamental importance to the application of what I have called the compensatory principle, that I would like to devote some attention to it, however briefly. There are two obstacles to a clear understanding of the distinction between caste and class. Firstly, there is no general agreement as to what people mean by class, and, to some extent, even caste. Secondly, there is considerable correlation at the empirical level between caste and class, which inclines people to the somewhat misleading conclusion that caste is an aspect of class, or vice-versa.

The distinction between caste and class, it appears to me, is drawn differently in the legal as against the sociological literature. The main reason behind this is that the lawyer tends to think of 'class' in a rather different way from the social scientist. Being a sociologist, I will not presume to make a judgement on these divergent conceptions of class. At the same time, important decisions of the Supreme

Court refer to the sociological factors that are to be taken into account in defining the Backward Classes, and this encourages me to confront the legal with the sociological conception of class.

From the sociological point of view the legal conception of class appears to be very broad and very general. For the lawyer class is a 'logical' rather than a 'sociological' category. In this sense a class is a category that we get by any kind of logically consistent classification. Clearly there is a sense in which we can talk about classes of numbers in mathematics, or of classes of phonemes in linguistics. The lawyer speaks of 'classes' of persons, and he is satisfied so long as the classification is reasonable in terms of the objective behind a particular Constitutional principle or legislative enactment. From his point of view it makes sense to describe as classes not only land-owners, tenants and labourers, or upper-, middle- and lower-income groups, but also Tribals, Untouchables and other groups of castes and communities defined in a particular way for a particular object.

The sociologist tries to give a more restricted meaning to the concept of class.⁸ He does not regard landowner, tenant and labourer on the one hand, and Brahmin, Jat and Chamar on the other, as being categories of the same kind. For him only the former constitute classes in the true sense of the term, and not the latter. The fact that most Chamars are agricultural labourers or that most Jats are cultivators does not make them into classes, for the identity of the first set of categories has a different basis from that of the second.

It is far from my intention to suggest that sociologists themselves are in complete agreement on the meaning of class. There is, first of all, the well-known difference of approach between Marxist and non-Marxist sociologists.⁹ The Marxists tend not only to assign overwhelming significance to class, but also to define it in a particular way. Non-Marxists are, on the whole, more eclectic in the choice of criteria for defining class. I think it would be fair to say that sociologists are more in agreement on what should not be reckoned as class than on what class actually is.

There are two interrelated components to what may be considered as the common core of the sociological conception of class. The first relates to the kinds of criteria by which classes are differentiated from each other, and the second to the kinds of units with which classes are constructed by the application of such criteria. The criteria used for differentiating classes are economic criteria, and

classes are made up of individuals who have only their economic conditions in common. The importance of the economic criterion in the definition of classes will be readily acknowledged. The significance of starting with the individual in reckoning classes is less easily recognized; it becomes manifest only when we contrast a system of classes with a system of castes.

It is not enough to say that social classes should be defined by economic criteria, because one can think of several economic criteria which are not all of the same kind. Here again the Marxist viewpoint is distinctive because it insists that, objectively, classes should be defined in terms of the sole criterion of the ownership or non-ownership of the means of production. But others have pointed to the independent importance of occupation and income.¹⁰ Among those who own no land or capital there may be some who are in superior occupations and earn high incomes; conversely, some property owners may have smaller incomes and lower prestige than some individuals in high-salaried occupations who may not own any property at all. At any rate, nobody can deny that in the contemporary world an individual's income and occupation—and perhaps also his education—are good indicators of his needs, and of his capacity to meet the needs of the members of his household.

Whichever way we look at it, a class is an aggregate of individuals (or, at best, of households), and, as such, quite different from a caste which is an enduring group. The distinction between an aggregate of individuals and an enduring group is of fundamental significance to the sociologist, and, I suspect, to the jurist as well.¹¹ A class derives the character it has by virtue of the characteristics of its individual members. In the case of caste, on the other hand, it is the group that stamps the individual with its own characteristics. There are some affiliations which an individual may change, including that of his class; he cannot change his caste. At least in principle a caste remains the same caste even when a majority of its individual members change their occupation, or their income, or even their relation to the means of production; it would be absurd from the sociological point of view to think of a class in this way. A caste is a grouping *sui generis*, very different from a class, particularly when we define class in terms of income or occupation.

The irreducible identity of castes in Indian society is acknowledg-

ed by sociologists as well as lawyers. I interpret Justice Hegde's statement in a Supreme Court judgement that 'A caste has always been recognized as a class'¹² to mean simply that the existence of castes must be acknowledged as a significant part of our social reality. Yet there is a certain uneasiness about this acknowledgement in view of our commitment to a casteless society. I see a trace of this uneasiness in the statement in another recent Supreme Court judgement that the Scheduled Castes 'are not a caste within the ordinary meaning of caste.'¹³ It is as if we were forced to acknowledge the existence of castes, wishing at the same time that they were classes!

A sociologist unfamiliar with the intricacies of Indian social structure is likely to detect a certain anomaly between the title of Part XVI of the Constitution and the provisions actually made under its various articles. For, while the title speaks of 'Special Provisions Relating to Certain Classes', all the articles except one deal with the Scheduled Castes, the Scheduled Tribes and the Anglo-Indian community. Where references are made specifically to the backward classes, as in Art. 338 (3) or in Art. 340, it is not altogether clear that they are conceived of as being different in kind from the Scheduled Castes, the Scheduled Tribes and the Anglo-Indian community. Again, it is perhaps a characteristic of our predicament that, in our Constitution as well as in everyday life, when we say 'class', as often as not, we mean 'community'. Even where the spirit of the age wants us to attend to the individual, castes and communities are forced on our attention by our traditional social structure.

Some students of the Indian Constitution have argued that the only reasonable classification in the Indian context is the classification into castes and communities. This point of view has recently been put forward most forcefully by L.G. Havanur as Chairman of the Karnataka Backward Classes Commission. He states in his Report that:

Class is synonymous with caste or tribe, so far as Hindus are concerned.

Class is synonymous with tribe, or racial group, so far as tribal communities are concerned.

Class is synonymous with section or group so far as Muslim, Christian and other religious communities and denominations are concerned.¹⁴

This would seem to leave very little room in the new legal order for any mode of classification other than those inherited from the past.

Much as one may disapprove of the categorical manner in which

Mr Havanur presents his case, one cannot ignore the wealth of legal, historical and sociological material he has presented in support of it. This material shows the salience of castes and communities not only in our ancient past but also in our more recent history. It is true that the traditional legal order emphasized the group at the expense of the individual; but there can be little doubt that this emphasis was given an additional edge by the manner in which the British transferred power to Indians after two centuries of colonial domination.

Mr Havanur has shown how from the very beginning the leaders of the Indian National Congress sought to articulate the demands of the various classes in Indian society, by which they meant Muslims, Christians, Sikhs, Parsis, Brahmins, Depressed Classes, etc. The term 'Backward Classes' began to acquire currency from around 1919, and to be used broadly to include the Depressed Classes, the Aboriginal Tribes and Other Backward Classes. 'The word *class*, besides being used in official and semi-official documents, was also being used by political leaders, social reformers and the like to apply to castes, tribes and communal groups.'¹⁵ In the case of Muslims, Christians and Parsis there could be very little scope for confusing the loose meaning of 'class' with its strict socio-economic definition; in the case of the Backward Classes some scope for such confusion obviously exists.

In the three decades preceding the formation of the Constituent Assembly the divisions into castes and communities that had existed in Indian society from ancient times acquired a new kind of legitimacy through the political process. Communal politics, minority politics and the politics of backwardness became closely intermeshed. It is in this light that we have to interpret Mr Havanur's laconic statement, 'Caste has come to stay'.¹⁶ The British made their contribution to the crystallization of the political identities of castes and communities in the emerging social order. This was partly because they felt that they had a special responsibility in protecting the interests of the minorities and the Backward Classes in the competition for power. But it was also because the demand for self-government could be kept at bay by playing one community off against another.

The balance of power between castes and communities was an important concern for those who participated in the deliberations of the Constituent Assembly. The equality provisions that came to be

written into the Constitution, particularly the provisions relating to protective discrimination, cannot be understood in isolation from this concern. Those to whom special provisions were to apply were at first conceived in a broad way, to include a variety of castes and communities; classes in the strict sense of the term hardly figured in this consideration. There were those who wanted the religious minorities to be included, and there were those who argued for the inclusion of virtually all Non-Brahmin Hindu castes. When Dr Ambedkar proposed that benefits be reserved for the backward classes, it was argued against him that if this was done and if the backward classes were defined in a limited and restricted manner, the special claims of millions of others would be overlooked.¹⁷

The special claims of the Scheduled Castes and the Scheduled Tribes arise out of the conditions under which they have been constrained to live from ancient times. The defining feature of their condition was that they were in many important regards placed *outside* the bounds of the larger society, the Scheduled Tribes on account of their isolation in particular ecological niches, and the Scheduled Castes on account of the segregation imposed on them by the rules of pollution.¹⁸ There were in the past, as there are at present, many different tribes among the Adivasis and many different castes among the Harijans, but they all shared in common the condition of being in one sense or another exterior to the larger society.

The exteriority of these two groups of communities puts their claims on a totally different level from the claims of all other communities in Indian society. Most of the disprivileges from which they have suffered and many of those from which they still suffer can in one way or another be related to it. So long as this condition exists the very possibility of creating equality in the external conditions of competition is denied.

It has to be emphasised that the disabilities from which the Harijans and the Adivasis suffered were in each case imposed on the community as a whole, and not on individual members of particular communities. This was notably so in regard to the stigma of pollution which was the lot of every Harijan caste in traditional Hindu society. P.V. Kane has brought out well the distinction between individual segregation and collective segregation on account of pollution.¹⁹ The segregation of the individual, of no matter what caste, on

account of the pollution of birth or death was temporary; quite different was the segregation of whole communities on account of a pollution that was imposed on them as a permanent and inescapable condition of life.

The isolation of the tribal communities was likewise a collective and not an individual affair. Its isolation enabled each tribal community to retain its own social organization, its own customs, its own religion and, above all, its own language. It also imposed on its members a rather low level of material existence. Indeed, what came to be identified as the tribal population of India in the nineteenth and twentieth centuries consisted precisely of those communities which by virtue of their material and cultural isolation had remained outside the mainstream of national life. Their collective deprivation has been in every way as marked as that of the Untouchables.

Although the deprivations traditionally suffered by the Harijans and the Adivasis were different in their specific manifestations, there is a certain logic in treating them together from the viewpoint of protective discrimination. Those who have been kept out require special facilities to be brought in. Special care has to be taken to ensure that they are able to exercise their rights as full citizens in the new legal order. Above all, no cost should be counted too high if it ensures the widest diffusion of literacy and education among them. Since disabilities have been imposed on entire communities, those measures should have the highest priority which directly benefit the largest number of individual members of these communities.

In a very broad sense each caste fixed its collective identity on its individual members and all castes had a position inferior to the Brahmins. Some such argument has been made to claim special concessions for a whole range of castes and communities which occupied the middle levels of the traditional ritual hierarchy. The implication of this is that our first priority ought to be to bring about equality between castes before we attempt to bring about equality between individuals. This, it seems to me, is the spirit behind Mr Havanur's somewhat unusual interpretation of the Constitution: 'Hence the Constitution suggests *recognition of castes for their equalisation.*'²⁰

It would be wrong to argue that in providing for equal opportunity, or even the equalization of opportunities among those unequally placed, we should always give priority to the group over the individual. Such a course might be justified if all the groups with

which we are concerned—castes and communities—were absolutely homogeneous on every significant scale of inequality. But we know perfectly well that they are not. Firstly, a caste which has a low ritual status may be materially well off; secondly, individual members of most castes vary considerably in their actual material condition, irrespective of the traditional ritual status of their caste. It is only at the very lowest end of the scale that the assumption of uniform deprivation holds true to a large extent.

The assumption of perfect congruence between the collective ritual status of a caste and the actual material condition of its individual members does not hold good today, and probably never held good in the majority of cases even in the past. Various forces are at work today which increase the dissociation between caste and income, caste and occupation, and caste and education. These forces draw the individual relentlessly away from the power and the protection of his caste. They compel us to take more and more account of the needs of the individual irrespective of his caste, for his caste tells us less and less about the total range of his deprivations. The new legal order must make provision for the individual to bring his needs to the attention of the state in his own right, without the mediation of his caste.

To the understanding of a sociologist, the very concept of citizenship in the Constitution of India is that it is an unmediated relationship between the individual and the state. This is a modern concept, characteristic of societies of a particular kind, and not a universal feature of all human societies. The modern concept of unmediated citizenship may be contrasted with the pattern prevalent in traditional West African societies where, Meyer Fortes tells us, 'it is a fundamental principle of Ashanti law that lineage membership is an inextinguishable jural capacity and the basic credential for citizenship.'²¹ It was much the same in traditional Hindu society: the individual was a member of society by virtue of his membership of a caste which he acquired by birth into a particular family.

Now it is one thing to make provisions of a specific nature and for a limited duration for the Scheduled Castes and Scheduled Tribes in order to protect them from injury and abuse, and in order to ensure that the conditions under which they compete with other members of society are fair and not just free. It is quite another thing to make the scope of protective discrimination so extensive that in every case, or in almost every case, the caste to which an individual

belongs becomes a relevant factor in determining his entitlements. For the idea of citizenship as inscribed in our Constitution is the very antithesis of the traditional idea that caste membership 'is an inextinguishable jural capacity and the basic credential for citizenship.'

The meritarian principle, as I noted earlier, has been closely, and, no doubt rightly, associated with individualism, and we cannot ignore the many sins that have been laid at the door of individualism, especially by the advocates of socialism. But we cannot throw out individualism root and branch merely on account of its excesses or its perverse expressions. We may not share all of Durkheim's enthusiasm for individualism as the source of a new religion and a new morality²², but we must not hesitate to acknowledge what we owe to the individual. Above all, in the context of Indian society, here and now, we must realize that the alternative to individualism may not be the cherished dream of socialism, but a moral order in which the individual is once again displaced by clan, caste and community.

The shadow of the community loomed large over the minds of many of those who had assembled to prepare the Constitution. In particular, there was much sentimental attachment to the idea of the traditional village community. While presenting the Draft Constitution, Dr Ambedkar attacked the village community and said, 'I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit'²³. In the debate that followed many were vocal in the cause of the village, but few spoke up for the individual; and yet what they wrote down would signify little without the individual being given a place in the centre.

Those who view inequality in terms of the hierarchy of castes tend to emphasise ritual status, because it was this rather than income or wealth or even occupation that was fixed at the same level for all individual members of a caste. On the other hand, there are those who view inequality in economic terms, and they tend to emphasise the distribution of income and wealth among individuals. We now have a fairly large number of studies of poverty and income distribution which tend to present a somewhat different picture of inequality in Indian society from the one we have just been considering.²⁴ Unfortunately, there has been very little synthesis of the work done on inequality by sociologists whose emphasis is on the hierar-

chy of castes, and the work done by economists whose emphasis is on the distribution of income between individuals and between households.

However strongly one might feel about the rigidities of caste, it will generally be conceded that these are no longer as severe as they were even a generation ago. The stigma of pollution, the segregation of Untouchables and the isolation of Tribals persist in practice, no matter what the law lays down, but even the practice is less uniform and less rigid than in the past. The sense of distance between castes considered superior and inferior has in general become attenuated; at any rate, no sociologist will seriously argue that the social distance between castes that was a part of the traditional order is now on the increase. It is otherwise with economic inequality and poverty. The absolute number of those below the poverty line is increasing, and there is no clear evidence that their proportion in the population as a whole is declining.

Whereas sociologists talk about the social backwardness of castes and communities, economists emphasise the material poverty of classes of individuals. The depth and extent of poverty, and the size of the classes in its grip have received expert attention from economists only recently. There are enormous difficulties in arriving at agreed measures of poverty in a country such as ours. Statistics on income and expenditure are difficult to collect in a predominantly agrarian economy, and, where levels of living are so low, there is room for disagreement among experts on where the line of poverty in an absolute sense ought to be drawn. There is, however, general agreement that substantial sections of our population—anything between 25 and 40 per cent of the total—live under conditions of extreme poverty.

Poverty no doubt existed in this country in the past as well, and some of its roots clearly go back to the traditional social order. But there are aspects of it that are equally clearly of more recent origin. It is doubtful if India ever witnessed such a massive concentration of poverty as one may see today in cities such as Calcutta, Bombay and Madras. Properly speaking, these are neither industrial nor pre-industrial cities; they owe their origin to the economic demands of capitalist expansion under colonial dominance. It may be argued that concentrated poverty has increased not only in the urban but also in the rural areas, and similar forces have been responsible for their increase in both cases.

The forces that lead to the concentration of poverty and the increase of economic inequality between individuals are also the ones that disrupt the traditional structure of castes and communities. Capitalism creates new inequalities, but it also undermines old ones. The economic forces that push people below the line of poverty do not pay much regard to the finer points of the traditional distinctions of status. Those who move into the slums of a large city leave behind a part of their traditional identity, including their traditional concerns for purity and pollution. The pavement dwellers of Calcutta include people from all castes and communities, though not in equal proportions; it would be unrealistic to believe that old distinctions can survive unchanged under these new conditions of life.

It has often been said that, despite its iniquities, the traditional order assured a measure of economic security to members of all castes, including the lowest. Each caste was assigned a specific occupation, and its members had a kind of hereditary right over that occupation. Economic relations were governed by status rather than contract, and the community as a whole had an obligation to see that all its members had some gainful employment. This is no longer the case either in principle or in practice. Employment is determined by the impersonal laws of the market which every year add to the number of unemployed individuals from every caste and community.²⁵ One's life chances, including one's employment prospects, are no longer guaranteed by caste, although they may be greatly improved by birth in a wealthy family of no matter what caste.

Traditionally the status of a caste was closely linked to the occupation over which its members had hereditary rights, but the nature of the relationship between caste and occupation has been much misrepresented. A caste occupation, properly speaking, is the occupation traditionally associated with the caste as a whole, and not the occupation actually practised by its individual members. It is doubtful that there was at any time a complete correspondence between the two. At any rate, even before Independence many castes, and probably most, had more than half their working members in occupations other than those specifically associated with their caste.²⁶

It should be clear that even when one acknowledges the desirability of limiting the claims of merit by those of need, it is not easy to

determine what kinds of needs there are and how they are to be met. It is one thing to try to satisfy needs through the provision of general facilities such as those relating to nutrition, health and literacy, and quite another to make special provisions, such as those relating to job reservation, that can satisfy directly only a few individual members of groups that are made up of very many. In particular it is fallacious to argue that the equalization of castes can be achieved by means of job reservations in the government. Such jobs are too few in number to materially alter the conditions of any caste as a whole; and there is little reason to believe that the personal advancement of an individual and the social betterment of the caste into which he was born have very much to do with each other.

In matters such as job reservation we have to consider seriously how much weightage to give to the material condition of the individual candidate and how much, if any, to the social status of the caste to which he belongs. Attempts have been made, as in the state of Kerala, to apply a means test in addition to the test of caste or community, but the result does not appear to have been materially different from what one might get by applying the caste test alone.²⁷ It is now becoming increasingly clear that in seeking to do justice to castes or communities we might deny justice to individuals, for we cannot any longer pretend that all or most or even many of the needs of the individual will automatically be taken care of by his caste, once the status of that caste is enhanced. The ends of justice are hardly met if our vain endeavour to bring about equality between castes leads only to the increase of inequality among the individual members of every caste.

Leaving aside the very special claims of the Scheduled Castes and the Scheduled Tribes, we have to concede that poverty is a very serious problem in Indian society, and that in choosing its victims it does not necessarily discriminate among castes. Justice Gajendragadkar's statement that social backwardness is 'the result of poverty to a very large extent'²⁸ is perhaps even more true today than when it was made nearly twenty years ago. More recently Jagjivan Ram has observed that 'Problems of a poor Brahmin and a poor Harijan are the same'.²⁹ Certainly the problems of a poor Brahmin may be more acute than those of a well-to-do member of a 'backward' caste demanding a place in the administration on the plea that his community has fewer than the average number of members in it.

To argue that a 'poor Brahmin and a poor Harijan' should be treated alike is to assert what I have earlier described as the human point of view. It is to maintain that considerations of race, caste and creed should be set aside when we are faced with the real needs of individual human beings. It is useful to remember that the human point of view may be asserted also on behalf of a Brahmin; and it is salutary to be reminded of this by a Harijan leader of national importance. In a caste-ridden society nothing is easier than to assert the human point of view on behalf of the members of one's own caste.

Clearly, in the case of the Untouchables, backwardness is not solely a matter of poverty, the extent of which might vary from one individual to another. It is due also to the stigma of pollution which attaches to the caste or community as a whole. Attitudes to pollution die hard in our society, and they reappear in the form of social prejudices which certainly weigh against the Untouchables, often heavily, in most competitive situations. The position of other castes which claim job reservation on a par with the Untouchables is hardly comparable. They cannot collectively claim to be victims of prejudice on account of their traditional status as Harijans and Adivasis can. In their case the particular circumstances of the individual claimants, rather than the status of the caste as a whole, must be considered decisive.

The prospects of material advancement through job reservation have led to a kind of competition for backwardness among castes at the middle levels of the hierarchy. This kind of competition creates a vested interest in backwardness, and it combines the worst features of a hierarchical and a free-market society. It stifles individual initiative without creating equality between individuals, and it obstructs the natural processes through which the barriers between castes and communities can be effaced. By making caste and community a relevant factor in every sphere of activity, it pushes the human point of view into the background.

The ideal of equality has at best a very insecure foothold in our society. It can never become securely established until we reject the distinctions of caste in all their implications. It is a mistake to try to separate the morphology of caste as a set of self-perpetuating groups from its ideology. The morphology and the ideology of caste are inseparably linked, and the ideology is totally antithetical to the values of equality. Thus any effort to strengthen the identity of

castes with a view to their equalization cannot but end in failure.

It is not true that the hierarchical values on which the distinctions of caste rest have never been challenged in Indian society before the modern age. It has often been pointed out that the first great protagonist of equality, the Buddha, was himself born in this land of hierarchy. Throughout the Middle Ages there was a succession of religious reform movements which challenged the established hierarchy of caste in the name of equality among men. But they all came to grief because of their inability to cut through the existing divisions of society. Describing the course of the movement for equality started by Chaitanyadeva in eastern India, N.K. Bose wrote, 'The ideas propounded by Lord Chaitanya remained confined to particular sects; they were not able to break down the intolerance embedded in society as a whole and usher in a new flood of life. The Vaishnavas were in effect transformed into a new caste.'³⁰ This seems to have been the normal cycle of development: what started as a movement for social reform became hardened into a sect which became transformed into a caste which then found a place for itself in the established order of castes.

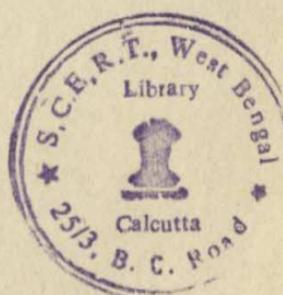
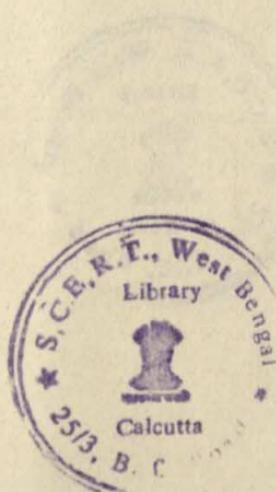
India has been described as the land of 'the most inviolable organization by birth'³¹, and the subordination of the individual to the group is an inseparable aspect of this organization. It is here more than anywhere else that we have to be vigilant about claims made by individuals on the strength of their birth in a particular group. This society made a terrible mistake in the past in believing that merit was an attribute not of individuals but of groups, that being born a Brahmin was in itself a mark of merit. We shall make the same kind of mistake if we act on the belief that need too is always, and not just in special cases, an attribute of groups rather than of individuals.

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22. Durkheim's celebrated defence of individualism was made in the cause of Alfred Dreyfus. See E. Durkheim, 'Individualism and the Intellectuals' (trans. S. & J. Lukes) in *Political Studies*, Vol. XVII, 1969, pp. 114-30.
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24. V.M. Dandekar and N. Rath, *Poverty in India*, Indian School of Political Economy (Bombay), 1971; T.N. Srinivasan and P.K. Bardhan (eds.), *Poverty and Income Distribution in India*, Statistical Publishing Society (Calcutta), 1974.
25. It is a noteworthy feature of sociological studies in India that they have paid hardly any attention to downward mobility as compared to the attention devoted to upward mobility. Again, this is partly because downward mobility is hardly visible any longer in the caste system, although it is very conspicuous in the class system.
26. N.K. Bose had pointed this out in studies he had made in the forties. See Bose, *The Structure of Hindu Society*, Chapter 11.
27. *Report of the Backward Classes Reservation Commission, Kerala*, 1970, Government of Kerala, 1971.

28. *A.I.R. 1963 S.C. 659.*
29. Reported in *The Statesman*, Delhi, 8 March 1980.
30. Bose, *The Structure of Hindu Society*, p.132.
31. M. Weber, *The Religion of India*, The Free Press, 1958, p.3.



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